

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FOXMIND CANADA ENTERPRISES LTD,

Plaintiff,

-v.-

ABCTEC, *et al.*,

Defendants.

21 Civ. 5146 (KPF)

ORDER

KATHERINE POLK FAILLA, District Judge:

For substantially the same reasons outlined in Plaintiff's letter regarding Defendant Kulala US's motion to dissolve the temporary restraining order (Dkt. #8), as well as the cases cited therein, this Court finds that the entity Kulala US cannot be represented by its non-attorney proprietor, Zhanghongchi, in this action. The Court's conclusion is supported by the representations made in the Declaration of Zhanghongchi, which is appended to Defendant's motion. (See Dkt. #5 at 24-26). In particular, the Declaration ascribes the operations of the online sales business to the entity Kulala US, explaining that "[o]ne of the items Kulala sold was the [at-issue product]," that "Kulala had an account on Amazon," and that the Amazon account contained "revenue from sales of *all products* sold by Kulala US." (*Id.* at 24 (emphasis in original)). On this characterization, Kulala US is a business entity that is distinct from the individual who purports to own and operate it. (See also *id.* ("I am a sole proprietor operating the Amazon store Kulala US identified on Attachment 'A' to the Complaint, a Real Party in Interest in this action and am authorized to execute this declaration *on its behalf.*" (emphasis added))))

The Court is mindful of the hardship that the obligation to retain counsel may present. So that Defendant Kulala US has ample time to retain counsel, the Court will provide until **August 23, 2021**, for Defendant to do so.

This Order does not speak to whether Defendant Kulala US is entitled to the relief sought by the prospective *pro se* representative in the Combined Motion to Dissolve the Temporary Restraining Order. (Dkt. #5). Rather, the Court has only determined that Defendant Kulala US must be represented by counsel to properly request such relief.

The Clerk of Court is directed to terminate the motion at docket entry 5. Plaintiff is directed to serve this Order on Defendant Kulala US and movant Zhanghongchi using any previously-used modes of transmission.

SO ORDERED.

Dated: July 23, 2021
New York, New York

A handwritten signature in blue ink, reading "Katherine Polk Failla".

KATHERINE POLK FAILLA
United States District Judge